

## EXHIBIT 33

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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STAR AUTO SALES OF BAYSIDE, INC.  
(d/b/a STAR TOYOTA OF BAYSIDE), STAR  
AUTO SALES OF QUEENS, LLC (d/b/a  
STAR SUBARU), STAR HYUNDAI LLC  
(d/b/a STAR HYUNDAI), STAR NISSAN,  
INC. (d/b/a STAR NISSAN), METRO  
CHRYSLER PLYMOUTH INC. (d/b/a STAR  
CHRYSLER JEEP DODGE), STAR AUTO SALES  
OF QUEENS COUNTY LLC (d/b/a STAR  
FIAT) and STAR AUTO SALES OF QUEENS  
VILLAGE LLC (d/b/a STAR MITSUBISHI),

Plaintiffs,

-against-

VOYNOW, BAYARD, WHYTE and COMPANY,  
LLP, HUGH WHYTE, and RANDALL FRANZEN,

Case No.  
18-cv-05775  
(ERK) (TAM)

Defendants.  
-----x

March 22, 2022  
10:24 a.m.

Deposition of SHAWN McCORMACK, taken by  
Plaintiffs, held at the offices of Milman Labuda  
Law Group PLLC, 3000 Marcus Avenue, Suite 3W8,  
Lake Success, New York, before Joseph Danyo V,  
a Shorthand Reporter and Notary Public within  
and for the State of New York.

Job No: 4430

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A P P E A R A N C E S :

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Also Present:

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HUGH WHYTE

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RANDALL FRANZEN

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ROBERT SEIBEL

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STEVEN RAMBAM

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JACQUELINE CUTILLO

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IT IS HEREBY STIPULATED AND AGREED, by and  
between counsel for the respective parties hereto,  
that the filing, sealing and certification of the  
within deposition shall be and the same are hereby  
waived;

IT IS FURTHER STIPULATED AND AGREED that  
the within deposition may be signed before any Notary  
Public with the same force and effect as if signed and  
sworn to before the Court.



1 McCORMACK

2 A. I'm not exactly sure, but it would be  
3 at least three times a year.

4 Q. What was the purpose of making about  
5 three visits per year to Star?

6 A. Okay, so the middle of the year you  
7 would make an interim visit, which is a pretax  
8 review look at the books, and you provide  
9 information on stuff that needed to be researched  
10 or cleaned up before the end of the year.  
11 Receivables, payables, things like that.

12 In November it would be a tax  
13 planning meeting where you project out the  
14 year-end to plan out for where it was going to be  
15 for the year-end and for all the owners for their  
16 estimated and extension payments and a year-end  
17 visit in January or February.

18 Q. During the middle of the year visit,  
19 which you referenced as a pretax visit to look at  
20 the books --

21 A. We would just call it an interim  
22 visit, but it was just an interim pretax.

23 Q. You had identified the fact that you  
24 would look at the receivables and payables,  
25 correct?

1 McCORMACK

2 A. It's not mine. I don't know whose it  
3 is.

4 Q. Do you know under what circumstances  
5 these time records would be marked up like this?

6 A. Yes. We would routinely go through  
7 the time records to classify what all the time --  
8 where it needed to be applied bill-wise, and  
9 you're asking about people billing stuff to the  
10 wrong places. It was common, and you would have  
11 to correct where their stuff was billed. Like  
12 you couldn't change it. You just had to change  
13 where it was supposed to go. My guess is  
14 somebody used this to put together a spreadsheet  
15 to figure out how the time really got divided up.

16 Q. When do tax returns need to be filed  
17 for Star, what time of year?

18 A. Generally tax returns were not filed.  
19 They were generally extended and filed either  
20 September 15th or October 15th, but it would be a  
21 December 31st year-end.

22 Q. On this document that we're looking  
23 at, there is time here for, I'm looking right  
24 above your name, for INT SER interim visit  
25 planning, and it's for -- in May of 2011.

1 McCORMACK

2 don't remember what we did at tax planning with  
3 this particular account.

4 Q. So you would never follow up with  
5 Carmen to see what her research uncovered?

6 A. No. There was no reason for us to do  
7 anything. There was nothing that we could do to  
8 make any adjustments to it from our office. If  
9 it was still there at tax planning, then we would  
10 probably revisit it, but I don't know.

11 Q. The last entry under Extended  
12 Warranty Accounts Payable, does that raise a red  
13 flag to you?

14 A. The \$1200?

15 Q. Yes.

16 MS. FITZGERALD: Objection.

17 You can answer.

18 A. No, it doesn't. Warranty packs are  
19 customary in all car dealerships. This just  
20 shows me that there was, they were charging it to  
21 their balance sheet. This probably needs to go  
22 through their income statement at year-end.

23 Q. Does anything about the serial number  
24 concern you?

25 A. No. It's just a number that they